CHARITABLE ENDOWMENTS BILL.

Mr. Nagam Aiya.—I beg to move that the Charitable Endowments Bill, the further consideration of which was deferred to this meeting, be now taken up.

Seconded by Mr. Rama Iyer.

The motion was put and agreed to.

Mr. Nagam Aiya.—At the last meeting of the Council Mr. John moved that section 7 be omitted and urged his reasons for adopting such a course. I have carefully considered the matter and I would urge again for the consideration of the Council that the section should be retained. This section does not lay down any new principle but only states explicitly what has been hitherto understood as an undoubted prerogative of the Sovereign. The due administration of charities and the providing of sufficient safeguards against their malversation are duties which are incumbent on every Government. If in a legislative measure which deals with such matters no express provision is made empowering Government to interfere in cases of mismanagement, it will be virtually denying the existence of an undoubted power which has hitherto been exercised whenever occasion arose. If section 7 is to be omitted, I think the whole Bill may as well be dropped.

Mr. Rama Iyer.—All the other sections of the Bill have already been considered by the Council and, so far as I can see, section 7 stands by itself and its provisions do not affect the other portions of the Bill. What the Council has now to consider is only whether section 7 should be retained or not.

Mr. John.—The learned Mover of the Bill has observed that section 7 only enacts in express terms a power of interference and supervision which has been exercised by Government in such cases. I cannot agree with him in the broad statement that he has made; nor do I think that there are sufficient data to establish the existence of such a prerogative. As I said at the last meeting, section 7 goes against the underlying principle of the Bill that it is a permissive measure. Having regard to the provisions of section 13 that no suit shall lie against Government for anything done *bona fide* under the Bill, I beg to state that the enactment of section 7 vests in Government an almost unlimited power to interfere in the internal administration of charitable institutions throughout the country.

Mr. Nagam Aiya.—I would draw your attention to the proviso. No action is to be taken by the Government unless Government is satisfied after full enquiry that gross mismanagement, neglect or malversation has taken place. In cases where there is undoubted malversation of funds it will be the interest of persons who deal with the properties of these charities not to bring the matter to the notice of Government for action being taken under sections 4 and 5 of the Bill and, in the absence of a provision similar to section 7, the result will be that the funds of these long-standing charities would soon be dissipated and the intentions of pious donors frustrated by dishonest trustees and managers and Government would be utterly unable to preserve the charities from being destroyed.

Mr. John.—I do not think there is any room to fear any such result. Section 511 of the Civil Procedure Code which is expressly saved by section 14 of the Bill provides sufficient safeguards for the protection of these charities and this is another ground for omitting section 7 of the Bill.

Mr. Rama Iyer.—The wording of section 7 is vague. It makes no provision as to what is the sort of enquiry that is to be made and how it is to be conducted. There is no provision similar to this in the Hindu Religious Endowments Regulation. Section 5 II of that Regulation runs thus:

"In the cases of institutions not falling under clause I, the Sirkar may exercise such superintendence in the management over them as to best fulfil the objects of the trust, if the trustees have failed to carry on their duties properly and in the best interests of the institution."

This section gives only a power of general superintendence and there is no analogy between it and section 7 of the Bill. As regards the Hindu religious endowments the legislature has after enacting section 5 II thought it necessary to

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define the procedure to be adopted in cases falling under that section as will be seen from the remaining sections of that Regulation.

Mr. Mahadeva Iyer.—I do not think that section 7 can be retained as it stands. If we are to have any provision in the Bill giving powers of interference to Government I think it will be necessary to re-draft the section and adopt also the other provisions of the Hindu Religious Endowments Regulation controlling the exercise of such powers.

Mr. Nagam Aiya.—I have no objection to those provisions being also put in. All that I want is that Government should have some power of control over these institutions.

Mr. Rama Iyer.—If so, a provision similar to proviso to section 17 of Regulation III of 1079 allowing suits by persons affected by the order of the executive is also necessary.

Mr. Govinda Pillai.—I also think that is a necessary provision.

Mr. Nagam Aiya then moved the following amendment:

"That section 7 be modified on the lines of section 5 II of Regulation III of 1079 and the necessary safeguards contained in sections 6 to 17 of that Regulation be also embodied in the Bill."

Seconded by Mr. Sesha Aiyar.

Mr. John.—I think that it is not necessary to proceed upon the analogy of Regulation III of 1079 and to introduce into this Bill all the elaborate provisions found in that Regulation. Such a course would in the first instance vest in the executive a certain power, but as soon as the power is exercised leave it open to any party to dispute its correctness in the Civil Courts. Section 511 of the Civil Procedure Code is, in my opinion, quite enough to preserve the funds of these charitable institutions from being wasted.

Mr. Kesava Pillai.—There is one point that I would wish to mention. The Bill before us deals not only with charitable endowments made by Hindus but with those of all classes in the country. In the founding of the charitable institutions there is generally a religious sentiment at the bottom and in the practical administration of these charities it is not easy to detach altogether the religious side. On the other hand there is a danger of interfering with the religious sentiments of particular classes for whose benefit the charities were originally founded.

Mr. Rajaram Row.—Section 511 of the Civil Procedure Code affords, in my opinion, ample protection for the preservation of these charities. I therefore think that section 7 may be omitted.

The amendment was then put to the vote and lost.

The original proposition of Mr. John to omit section 7 was next put to the vote and carried by a majority.

Mr. Nagam Aiya.—I beg to move that the Bill as now amended be read again on a future day of which notice shall be given.

The motion was put and agreed to.

CRIMINAL PROCEDURE CODE AMENDMENT BILL.

Mr. Rajaram Row.—The next business on the agenda is the discussion of the principle of the Criminal Procedure Code Amendment Bill. The amendments now proposed fall under the following heads:

(1) Investing Magistrates of the 1st class with appellate jurisdiction.
(2) Summary rejection of appeals.
(3) Summary trials.
(4) Trials by jury or with assessors.
(5) First offenders.

Under the present law it is the District Magistrates alone who are competent to hear appeals from the decisions of Magistrates of the 2nd and 3rd class. It has been found from experience that the District Magistrates who are also the chief Revenue officers of Divisions are unable to devote as much time as would be desirable for the disposal of these appeals owing to their other multifarious and

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